

Condensed Transcript (with Word Index) of Murphy, Harold K. (Vol. 01) - 11/13/2007
Thursday, December 27, 2007, 10:08:54 AM

Murphy

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 HAROLD KELLY MURPHY,
6 Plaintiff,
7
8 vs. Case No.: 2:06-CV-618-MEF
9
10 SOUTHERN ENERGY HOMES, INC., et al.,
11 Defendants.
12
13 * * * * *
14 DEPOSITION OF HAROLD KELLY MURPHY,
15 taken pursuant to notice and
16 stipulation on behalf of the
17 Defendants, at Beasley, Allen, 272
18 Commerce Street, Montgomery, Alabama,
19 before Bridgette Mitchell, Shorthand
20 Reporter and Notary Public in and for
21 the State of Alabama at Large, on
22 November 13, 2007, commencing at
23 9:40 a.m.

Page 3

1 STIPULATIONS
2 It is hereby stipulated and
3 agreed by and between counsel
4 representing the parties that the
5 deposition of HAROLD KELLY MURPHY is
6 taken pursuant to notice and
7 stipulation on behalf of the
8 Defendants; that all formalities with
9 respect to procedural requirements are
10 waived; that said deposition may be
11 taken before Bridgette Mitchell,
12 Shorthand Reporter and Notary Public in
13 and for the State of Alabama at Large,
14 without the formality of a commission;
15 that objections to questions, other
16 than objections as to the form of the
17 questions, need not be made at this
18 time, but may be reserved for a ruling
19 at such time as the deposition may be
20 offered in evidence or used for any
21 other purpose as provided for by the
22 Civil Rules of Procedure for the State
23 of Alabama.

Page 2

1 APPEARANCES
2
3
4 FOR THE PLAINTIFF:
5 C. Lance Gould, Esquire
6 BEASLEY, ALLEN, CROW, METHVIN,
7 PORTIS & MILES, P.C.
8 218 Commerce Street
9 Montgomery, Alabama 36104
10
11
12 FOR THE DEFENDANTS:
13 W. Scott Simpson, Esquire
14 RITCHEY & SIMPSON, P.C.
15 3288 Morgan Drive
16 Birmingham, Alabama 35216
17
18
19 ALSO PRESENT:
20 David Tompos
21 Jim Bauer
22
23

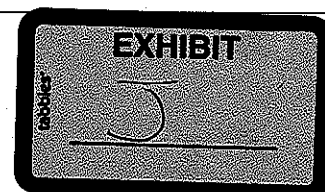
Page 4

1 It is further stipulated and
2 agreed by and between counsel
3 representing the parties in this case
4 that the filing of the deposition of
5 HAROLD KELLY MURPHY is hereby waived
6 and that said deposition may be
7 introduced at the trial of this case or
8 used in any other manner by either
9 party hereto provided for by the
10 Statute, regardless of the waiving of
11 the filing of same.
12 It is further stipulated and
13 agreed by and between the parties
14 hereto and the witness that the
15 signature of the witness to this
16 deposition is hereby waived.

INDEX

20 EXAMINATION	Page
21 By Mr. Simpson.....	6
22 By Mr. Gould.....	154
23	

CONFIDENTIAL



page 1

Condensed Transcript (with Word Index) of Murphy, Harold K. (Vol. 01) - 11/13/2007
Thursday, December 27, 2007, 10:08:54 AM

Murphy

Page 37

1 was bulky, right down through there
2 also, and that's right on that back
3 side.
4 Q. What's your theory? What's going on
5 here? Is there water in these walls?
6 A. I mean, I have only seen them when
7 y'all opened them up and one of their
8 guys opened them up and there was mold
9 down the back side. And it had been
10 wet because you can see stain damage on
11 the back side. And your guys said
12 there was no -- no water leaks. So if
13 there's no water leaks up there --
14 Q. Who said that?
15 A. The Southern Energy guy, when he came.
16 And then when your experts and my
17 experts, or their experts, were there,
18 there was no -- was no roof leaks.
19 Q. I told everyone not to talk to you.
20 We're not supposed to do that. Did
21 somebody break the rules?
22 A. Yeah.
23 Q. Who talked to you?

Page 39

1 faucet and the kitchen faucet, all of
2 them -- either the faucet broke or the
3 pipe broke.
4 Q. All right. Let's start with the
5 bathroom. First of all, let me back
6 up. You said things weren't going
7 right and you pointed to Exhibit 1?
8 A. Yeah. Well, just --
9 Q. I'm trying to understand. It looks
10 like you were happy when they called
11 you.
12 A. I was happy only with the stuff he had
13 already done. The roof and the molding
14 and all, I was not happy; the outside
15 stuff.
16 Q. Did you ever send anything to Southern
17 Energy indicating you weren't happy or
18 were all your complaints with Jan?
19 A. I called them. They -- Corky's got
20 frustrated with me and they gave me the
21 number to talk directly. I can't
22 remember who I talked to. But I was
23 talking to Rick or somebody up there

Page 38

1 A. I can't remember which guy it was. One
2 of them guys. We showed him pictures
3 and all. We just looked -- and then --
4 let me think. There was another guy
5 there, too. The guy with the camera
6 was there, too. He was --
7 Q. The older guy?
8 A. He was there when we talked about it.
9 Q. We have a picture, and I didn't bring
10 it with me, but there's a stain line
11 that runs down this sink right in
12 between the tub there like the sink
13 overflowed and kind of flooded there.
14 Do you remember that happening in your
15 bathroom?
16 A. No, sir. But I will tell you we had --
17 in our warranty, after -- right --
18 after all this happened, we just got
19 frustrated because it wasn't going
20 right. And I done told Jan two or
21 three times about it. I had to replace
22 that sink right there. The pipe on it,
23 it blew out. That faucet, that

Page 40

1 about everything.
2 Q. This was after your warranty expired or
3 before?
4 A. It was going to be right at the end, at
5 this little deal here.
6 Q. What was the substance of that
7 conversation?
8 A. I told them that the roof was bulky.
9 Q. And you're talking about over the
10 master bathroom?
11 A. Yeah. I said the roof -- actually,
12 around the whole thing.
13 Q. It's wavy?
14 A. When the roof comes down, here's the
15 outside wall, it bows -- it turns like
16 this (indicating), so water could stand
17 right there. No doubt in my mind.
18 Q. Okay. So you think it's kind of like a
19 valley?
20 A. It's got a valley up there. See, I
21 knew that and they kept saying it did
22 not. And I had a fellow with Jones
23 Brothers Roofing Company, I forgot his

Condensed Transcript (with Word Index) of Murphy, Harold K. (Vol. 01) - 11/13/2007
Thursday, December 27, 2007, 10:08:54 AM

Murphy

Page 41

1 name and he come and looked at it and
2 he said it needed to be fixed, that
3 it -- that the shingles was no problem,
4 but the wood, it looked like the wood
5 had sagged. He didn't know if it was
6 from the moving of the thing or not.
7 Q. Can you be a little bit more specific
8 about where you think the roof is
9 sagged?
10 A. All the way around across this side --
11 front and back.
12 Q. So along the whole front and the whole
13 back?
14 A. Yes, sir.
15 Q. And where do you think that has caused
16 roof leaks into your house?
17 A. Well, I don't know that it has caused
18 roof leaks. Everybody that has seen
19 has said there was no roof leaks. And
20 I haven't seen any. I just was kind of
21 assuming.
22 Q. All right. Now, you said you had --
23 let's start with this sink in here in

Page 43

1 Q. Okay.
2 A. They feed together. It broke. And
3 that might not be what caused it. But
4 it's just at that particular time --
5 Q. Water went everywhere?
6 A. As soon as it happened, she heard it,
7 she opened the sink, water was going --
8 running down on her stuff. I cut the
9 valve off and then I had to put a new
10 faucet on. I thought it was the water
11 line.
12 Q. Okay.
13 A. Nothing ever flooded there because that
14 water, we got that right up.
15 Q. Because when we pulled your siding off,
16 we saw evidence of a water stain like
17 there had been some water damage there
18 like a line that went all the way
19 across.
20 A. But this sink here has never flooded
21 over. And like I said, that -- we had
22 that -- this one did.
23 Q. Now we're talking about the second

Page 42

1 the master bathroom. And we're
2 pointing now to the sink on the outside
3 wall, the long wall, next to that
4 window there. Do you see that?
5 A. Yes, sir.
6 Q. Now, you said you had a problem with
7 that sink. Tell me how that problem
8 arose and what you did.
9 A. Water line broke under the sink. I
10 take that back. The pipe coming out of
11 the bottom of the faucet, it cracked.
12 Q. So this is the exit pipe?
13 A. It's the water line. When it comes
14 into the bottom of the faucet.
15 Q. Okay.
16 A. My wife turned it on to brush her
17 teeth, and when she cut it off, it
18 popped.
19 Q. Hot -- well, cold water on?
20 A. Hot water side, I think.
21 Q. I hope she wasn't brushing her teeth
22 with the hot water.
23 A. No. Our faucet feeds together.

Page 44

1 bathroom?
2 A. Yeah, the second bathroom.
3 Q. What happened there?
4 A. It was at night again one night and I
5 woke up. My wife said, I hear
6 something, and she woke me up. And
7 this one had overflowed. This one, the
8 inside broke in the faucet and it was
9 running -- it was running so fast the
10 drain couldn't catch it and it had done
11 run over and come in to the floor. And
12 it had the floor wet right here
13 (indicating) by the time I run in there
14 and I capped it off. Cut the valves
15 off, you know, then it drained down.
16 Q. So had someone been using this sink or
17 it just popped off?
18 A. It just popped.
19 Q. Was it in the wintertime? Was it like
20 a frozen pipe thing?
21 A. Oh, no. It was the faucet again.
22 Q. Bad faucet?
23 A. It had broke right there on the faucet,

Condensed Transcript (with Word Index) of Murphy, Harold K. (Vol. 01) - 11/13/2007
Thursday, December 27, 2007, 10:08:54 AM

Murphy

Page 77

1 got insurance through Corky and them,
2 American Home, and I filed with them.
3 I said, If they didn't get the damage,
4 the mold damage --
5 Q. You filed an insurance claim?
6 A. If they would fix the leak, fix the
7 leak in the roof, if they would fix
8 that or whatever, and they denied it.
9 They sent me a letter. I've got that
10 letter saying that it was a
11 manufacturer's defect. They sent it.
12 MR. SIMPSON: Can I get that
13 letter?
14 MR. GOULD: Yeah.
15 Q. Where is that letter?
16 A. I've got it. I'll get it to him.
17 Q. When did you notify -- was it American
18 Bankers? Is that the --
19 A. American Family Insurance. And they
20 sent an adjustor out and he --
21 Q. American Modern?
22 A. American Modern. And he sent some
23 other folks out.

Page 79

1 four spots, because he -- when I
2 called, I told him what it was. He
3 said, We need to look at this, then.
4 And then I -- I was under the
5 impression that the roof --
6 Q. You told him the roof was bad?
7 A. I said, The roof has -- I know the roof
8 don't look good. I didn't know if it
9 was the problem or not. And then they
10 sent -- they sent folks out to look at
11 it and then I didn't hear nothing back
12 from them. Then they sent me a letter,
13 a certified letter, saying --
14 Q. Did they send someone out there?
15 A. Yeah.
16 Q. And what did that person -- how many
17 people went out there?
18 A. I wasn't there. The adjustor come out
19 and looked around. He said, I'm going
20 to send somebody and I'll get back with
21 you. And he sent somebody, but I don't
22 know who it was because they come
23 through my yard. It had been raining

Page 78

1 Q. When was that, after you signed up for
2 the lawsuit?
3 A. It was right before.
4 Q. Right before?
5 A. Because I was -- if I could get the
6 insurance to take care of it, I was
7 just going to say, Don't worry about
8 it. Let's just get it fixed and get on
9 with it.
10 Q. I want to go back to the floor plan
11 here.
12 A. Okay.
13 Q. What did you tell American Modern
14 Insurance Company was wrong that you
15 wanted to file a claim about?
16 A. I showed them about the soft -- the
17 soft in the walls and the mold in the
18 walls.
19 Q. Okay. You're pointing to both arrows
20 in the master bath?
21 A. Yeah.
22 Q. You showed them both of those areas?
23 A. Yeah. I actually -- there was three or

Page 80

1 and they pulled right in the middle of
2 my yard and ruined my yard and I called
3 them on that.
4 Q. You were mad?
5 A. Yes. I just put sod down and it rained
6 and instead of going around the
7 driveway they went right across the
8 yard.
9 Q. Oh, man.
10 A. So the -- so I knew somebody was there.
11 And then they sent me a certified
12 letter saying they would not do it
13 because that was the manufacturer's
14 responsibility because it's faulty
15 work. It's a pretty good little
16 letter. I called up and I raised Cain
17 about that.
18 Q. And what did the letter say, was it a
19 roof leak or was it --
20 A. It just -- all it said was could not
21 find a -- couldn't find a visible
22 damage from -- I guess what you call it
23 weather-related stuff, whatever, so it